1949.

File No. Requisitioning II/49(R)

Legal **DEPARTMENT**

B **BRANCH**

K

K.S.R 11/6

Subject:— pTE

Rules issued under

Bombay Land Requisition

Act ; 1948.

File No. Requisitioning II/49(R)

Std. Sectt. Slip 24 B e.

4-16-B.

Legal Department.

A draft notification embodying the revised rules is sent herewith.

2. Draft rules 3 and 4 of the Department's draft on pp. 11-12 ante.- Section 8 of the Bombay Land Requisition Act, 1948, provides for holding an inquiry in the prescribed manner. The draft rules sent for scrutiny do not provide for the manner in which inquiry shall be held for the purpose of determining the compensation. Rule 4 of the revised draft therefore provides that the compensation officer, if he does not agree with the claim of the applicant, shall fix the time, place and hour for holding an inquiry and give notice of the same to the applicant with an intimation to produce any evidence, documentary or otherwise, insupport of his claim. H. & L.G.D. is requested to verify if the revised draft rule 4 would be suitable and serve the purpose.

Draft rule 4 of the Department's draft which provides that the Compensation Inquiry Officer shall exercise his powers under section 10 of the Act to the extent deemed necessary etc. is unnecessary and has been omitted from the revised draft rule 4.

3. Draft rule 7 of the Department's draft on pp. 12-13 ante.- The draft rule provides that where no agreement can be arrived at, the compensation will be provisionally fixed by the Compensation Officer and the landlord shall enter into an agreement in Form C without prejudice to the final decision or claims on either side. If the authorised Officer does not agree with the claim of an applicant, he has to determine the amount of compensation according to the provisions of the Act or decide the dispute and make an order accordingly

EV- 5/6 K.S.R. 5/6

There is no question of fixing the amount of compensation provisionally and requiring the landlord to execute any agreement. it would not therefore be legally feasible to make any rule for fixing the amount of compensation provisionally and repairing requiring the landlord to enter into anagreement in the proposed Form C at p. 25 ante, since such a rule would be ultra vires of the Act. Rule 4 of the revised draft has therefore been suitably amended and Form C at pp. 25-28 ante has been deleted from the revised draft.

4. Rules 8, 9 and 10 of the Department's draft, at pp. 13-14 ante .- Sections 8 and 9 provide for determining the amount of compensation only. There is no other provision in the Act which would cover the said rules. It would not, therefore, be legally feesible to make the proposed rules 8, 9 and 10. Rules 8, 9 and 10 and the terms and conditions of the tenancy at pp. 13-18 ante have therefore been omitted from the revised draft.

5. Revised draft rule 6.- This rule corresponds to rule 5 of the Department's draft. This rule purports to fix the maximum amount of compensation for the purposes of section 8(3) with reference to standard rent. The expression "Standard Rent" has not been defined either in the Act or these rules. H. & L.G.D. is therefore requested to specify some flat figure, for the purposes of the said section 8(3) of the Act, in the revised draft rule 6.

Sd/ J.R.Dhurandar.
19-2

Additional Secretary to Government.

U.R. to H. & L.G.D. No. 2079 , dated the 21st February 1949.

S .C. 4/6

Legal Department.

The expression "standard rent" in relation to any premises as defined in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, inter alia means in any of the cases specified in section 11, the rent fixed by the Court. In respect of such requisitioned premises, it would therefore be necessary in the first instance to get the rent determined by a Court. It would then only be feasible to know whether an appeal to the High Court would or would not lie. This will cause unnecessary delay and inconvenience in determining the amount of compensation. It would, therefore, be more appropriate to fix a flat figure as suggested in para. 3 of this department note on page 31 ante. Rule 6 on page 35 ante has, therefore, been amended accordingly. Since the expression "urban areas" and "rural areas" have not been defined in the Land Requisition Act or in the Bombay General Clauses Act, 1904, reference has been made to "areas within the limits of Municipality" and "elsewhere" (i.e. other areas). The rule in question is relatable to section 8 only and not section 9. This is made clear in rule 6 on page 35 ante.

sd. J.R.Dhurandar.
19-

Additional Secretary to Government.

U.R. to R.D. (Accommodation) No. 4280
dated the 20th April , 1949.

S.C. 4 Copies 4/6

Legal Department.

Rule 3. Section 19(2) of the Bombay Land Requisition Act, 1948, enables Government to prescribe the manner of holding an inquiry under sub-section (1) of section 8. The Compensation is to be paid to persons having interest in the requisitioned land. There appears no legal objection to empowering the Compensation Officer to hold inquiry suo motu to determine the compensation to be paid to such persons. The Bombay Land Requisition (Determination of Compensation) Rules, 1949 can be amended suitably for the purpose.

Rule 4(3). The words in rule 4(3) "shall make an order accordingly" give power to the Compensation Officer to require the applicant to execute the agreement in Form D which under sub-rule (1) he has already agreed to execute. No further amendment of the rule is necessary.

Rules 5(1) and (2). It would not be within the scope of the rule making authority conferred by section 19 to make a provision auth rising the Compensation Officer to execute the Order of compensation made by him. For the sake of administrative convenience, the Compensation Officer may be authorised under rule 12 of the Rules of Business to sign orders under rule 5(2) of the Compensation Rules on behalf of Government.

Sd/ J.R.Dhurandar.
23-6

Additional Secretary to Government.

U.R. to R.D. (Accommodation) No. 6979
dated the 24th June 1949.

S.C. 4/6

Legal Department.

Since under clause 4 of the agreement all questions or differences whatsoever which may arise at any time between the parties or their respective representatives touching the said agreement or the construction thereof will be referred to the Compensation Officer whose decision is final and binding on theparties, it would not be proper to ask the Compensation Officer to execute the agreement.

Sd. J.R.Dhurandar.
15-7

Additional Secretary to Government.

U.R. to H. & L.G.D. No. 7981 , dated the 15th July 1949.

S.C. 4/6

NOTIFICATION.

Revenue Department.

Bombay Castle, August 1949.

Bombay Land Requisition Act, 1948.

No. Misc/12043-P In exercise of the powers conferred by section 19 of the Bombay Land Requisition Act, 1948 (Bom. XXXIII of 1948), the Government of Bombay is pleased to amend the Bombay Land Requisition (Determination of Compensation) Rules, 1949, as follows, namely :-

After rule 4 of the said rules the following rule shall be inserted, namely.-

"4A. Notwithstanding anything contained in these rules, if the Compensation Officer on any information received or otherwise has reason to believe that compensation claimed by and paid to any person having an interest in respect of any Land referred to in rule 2 is not reasonable, he may, after making such inquiry as he deems fit, fix the date, time and place for determining the amount of compensation to which such person is entitled and shall give notice of the same to such person with an intimation to produce any documentary or other evidence in support of his claim. The provisions of sub-rules (3) and (4) of rule 4 shall, so far as may be, apply to an order made under ~~this~~ this rule.

By order of the Governor of Bomb

Secretary to Government.

S.C.4/6

Legal Department.

A revised draft notification is sent herewith.

Sd. J.R.Dhurandar.
31-8

Additional Secretary to Government.

U.R. to R.D., No. 9971 , dated the 31st August 1949.

S.C. 4/6